

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

SYRILDA HELGREN, EXECUTRIX OF THE
ESTATE OF FLORENCE CARRABINE, DECEASED

Claim No. CU -0830
CU-1982

Decision No. CU
1599

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Harold Godwin, Esq.

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$4,000.00, and an unstated amount, respectively were presented by SYRILDA HELGREN, EXECUTRIX OF THE ESTATE OF FLORENCE CARRABINE, DECEASED, and are based on decedent's interests in bonds issued by the Cuba Railroad Company and a stock interest in the Vertientes-Camaguey Sugar Company of Cuba. Evidence of record discloses both decedent and the beneficial owner of these claims acquired United States nationality by birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

On the basis of evidence of record, the Commission finds that decedent was, and since prior to October 13, 1960, had been the owner of 4 bonds, in the original face amount of \$1,000.00 each, issued by the Cuba Railroad Company and known as "Improvement and Equipment Gold Bonds, 4%, due June 30, 1970" issued under an Indenture of July 1, 1910, and Supplemental Indentures dated July 1, 1952 and December 1, 1959, with Chemical Bank New York Trust Company as Successor Trustee. The Bonds in question are Nos. M 849, M 3248, M 3249, and M 3250.

Evidence of record discloses that the said Florence Carrabine died, testate, on June 14, 1966, and that SYRILDA HELGREN, as sole legatee under the decedent's Last Will and Testament, succeeded to the interests of the decedent in the subject bonds.

The Cuba Railroad Company, organized in the State of New Jersey, was a wholly-owned subsidiary of Consolidated Railroads of Cuba, a Cuban corporation. By Indenture dated July 1, 1910, and Supplemental Indentures dated July 1, 1952 and December 1, 1959, the Cuba Railroad Company issued Dollar Bonds secured by mortgage upon the realty and equipment of the Company. By the Supplemental Indenture of July 1, 1952, the bonds were reissued as 4% bonds, due June 30, 1970. As of 1952, the outstanding principal balance on each \$1,000.00 bond was \$635.00, with interest at 4% per annum to be paid on the principal balance.

The record discloses that the last payment of interest on the bonds was made on November 1, 1958. The properties of the Cuba Railroad Company were listed as nationalized by Cuban Law 890, effective October 13, 1960, the date of its publication in the Cuban Official Gazette. Decedent's bonds, therefore, represented a debt which was a charge upon nationalized property as defined in Section 502(3) of the Act.

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The Commission concludes that, as a result of the nationalization of the properties of the Cuba Railroad Company, decedent suffered a loss in connection with her bonds within the meaning of Title V of the Act. (See Claim of Edgar F. Corliss, Claim No. CU-0785.)

The Commission finds that the total amount of the unpaid indebtedness on the subject bonds was \$2,738.72 including the principal amount of \$635.00 on each bond, and the interest due on each bond from November 1, 1958 to October 13, 1960, the date of loss in the amount of \$49.68.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644.)

Accordingly, the Commission concludes that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss, to the date on which provisions are made for settlement thereof.

The Commission opened Claim No. CU-1982 as an extension of the Claim of Morgan Guaranty Trust Company, as Trustee, Claim No. CU-1594, on the basis of a "Bondholder Statement of Nationality" signed by the claimant. This statement relates to the asserted ownership of 4 First Mortgage 4% bonds issued by the Cuba Railroad Company.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

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The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

By letter of March 4, 1968 counsel advised the Commission that claimant was asserting a claim only for bonds which have been submitted to the Commission. No First Mortgage 4% Bonds have been submitted in support of either of these claims. Accordingly, since claimant no longer asserts and has not proven the ownership of such bonds, the portion of these claims based on the asserted ownership of First Mortgage 4% bonds of the Cuba Railroad Company is denied.

In support of Claim No. CU-1982, claimant has submitted a stock certificate issued in decedent's name by the Vertientes-Camaguey Sugar Company of Cuba. The Commission's records disclose that claimant has authorized the Vertientes-Camaguey Sugar Company of Cuba to represent her before the Commission in any and all claims arising from the confiscation of that company's assets by the Government of Cuba.

Accordingly, the remaining portion of these claims, based on the ownership of Vertientes-Camaguey stock, is denied without prejudice to the participation of SYRILDA HELGREN, EXECUTRIX OF THE ESTATE OF FLORENCE CARRABINE, DECEASED, in the claim filed by the Vertientes-Camaguey Sugar Company as agent for its consenting stockholders. (Claim No. CU-0624).

The evidence submitted by claimant in support of this portion of the denied claim will be considered by the Commission in Claim No. CU-0624.

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CERTIFICATION OF LOSS

The Commission certifies that SYRILDA HELGREN, EXECUTRIX OF THE ESTATE OF FLORENCE CARRABINE, DECEASED, suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Two Thousand Seven Hundred Thirty-Eight Dollars and Seventy-Two Cents (\$2,738.72) with interest thereon at 6% per annum from October 13, 1960 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

APR 10 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner
CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on MAY 17 1968

Francis Hesteron

NOTICE TO TREASURY DEPARTMENT: ~~This claimant may be the subject~~ ^{Clerk of the Commission}
of another certification of loss in CU-5529.

NOTICE TO TREASURY DEPARTMENT: The above listed bonds may have been returned to claimant and no payment should be made until they are resubmitted.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)